

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI

CAUSE NO.77 OF 2015

(Formerly Consolidated Causes No. 1200,1215 and 1218 of 2010 at Nairobi)

JULIUS KARIMI.....1ST CLAIMANT

BENSON KAGUNDA.....2ND CLAIMANT

FRANCIS KIMUNYI.....3RD CLAIMANT

VERSUS

INOI FARMERS CO-OPERATIVE SOCIETY.....RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday, 4th December, 2015)

JUDGMENT

The claimants filed their respective memoranda of claims on 08.10.2010. The 1st and 3rd claimants pleaded that they were each terminated unfairly from the respondent's employment on 28.09.2018 while the 2nd claimant pleaded that he was terminated from employment on 28.07.2007. The respondent has pleaded by way of a preliminary objection that the suits are time barred because they were filed after the lapsing of the 3 years prescribed in section 90 of the Employment Act, 2007.

The facts on the date of the termination and the date of filing of the suits are clearly not in dispute. Accordingly, the court finds that the cited section applied and the suits were indeed time barred.

However, the parties had recorded in court consent orders on 29.07.2015. The court returns that subject to the consent orders of 29.07.2015, the suits are determined as they are time barred.

In conclusion, the court makes judgment and orders as follows:

1. That subject to the consent orders recorded in court on 29.07.2015, the suits are hereby determined as they were time barred.
2. As per the consent orders of 29.07.2015, parties at liberty to record in court terms of agreement as they deem appropriate to meet agreed ends of justice in respect of the 3rd claimant's matter.
3. Each party to bear own costs of the suits.
4. A decree to issue accordingly in the suits as consolidated.

Signed, dated and delivered in court at Nyeri this Friday, 4th December, 2015.

BYRAM ONGAYA

JUDGE